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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,703	10/29/2003	Eric C. Hannah	42P13837D	7551

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EXAMINER

RODRIGUEZ, JOSEPH C

ART UNIT PAPER NUMBER

3653

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-18, drawn to a method and two devices for manipulating nanotubes, classified in class 356, subclass 309.
- II. Claims 19-30, drawn to a method and apparatus for synthesizing and sorting nanotubes, classified in class 209, subclass 127.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). Here, the synthesizing and generating feature of group II makes the method and apparatus claimed therein *materially* different from the method and devices of group I as group I relates only to manipulating nanotubes—not to their generation. Further, group II expressly claims sorting the nanotubes, thus the inventions in group II can be practiced by materially different systems that do not perform sorting or synthesizing and the inventions in group I can also be used in materially different systems.

Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02) (e.g., nanotube generation requires a search in class 427, subclass 249.1 while optical

devices for manipulating nanotubes are limited to searches in class 356 and 250), restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Conclusion

Any references not explicitly discussed above but made of record are considered relevant to the prosecution of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Joseph C Rodriguez** whose telephone number is **571-272-6942** (M-F, 9 am – 6 pm, EST).

The **Official** fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

The examiner's **UNOFFICIAL Personal fax number** is **571-273-6942**.

Further, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only.

For more information about the PAIR system, see

<http://pair-direct.uspto.gov>

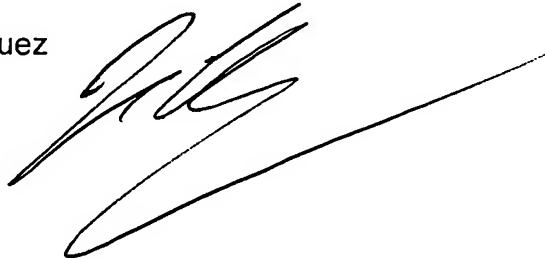
Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at **866-217-9197** (Toll Free).

Alternatively, inquiries of a general nature or relating to the status of this application or proceeding can also be directed to the **Receptionist** whose telephone number is **571-272-6584** or to the Supervisory Examiner, Kathy Matecki, **571-272-6951**.

Signed by Examiner Joseph Rodriguez

jcr

March 7, 2006

A handwritten signature in black ink, appearing to read 'JCR', with a long horizontal line extending from the bottom of the signature.